



BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R01-OAR-2012-0290; FRL- 9768-7]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; New Hampshire; Redesignation of the Southern New Hampshire 1997 8-hour Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving: the State of New Hampshire's request to redesignate the Boston-Manchester-Portsmouth (SE), New Hampshire moderate 8-hour ozone nonattainment area to attainment for the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS); a State Implementation Plan (SIP) revision containing a 10-year ozone maintenance plan for this area; a 2008 comprehensive emissions inventory for the area; and new motor vehicle emissions budgets (MVEBs) for the years 2008 and 2022 that are contained in the 10-year ozone maintenance plan for this area.

EFFECTIVE DATE: This rule is effective on **[Insert date 30 days from date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2012-0290. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays. Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the State Air Agency: Air Resources Division, Department of Environmental Services, 6 Hazen Drive, Concord, NH.

FOR FURTHER INFORMATION CONTACT: Richard P. Burkhart, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114-2023, telephone number (617) 918-1664, fax number (617) 918-0664, email Burkhart.Richard@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. Background

On October 25, 2012 (77 FR 65151), EPA published a notice of proposed rulemaking (NPR) for the State of New Hampshire. The NPR proposed approval of New Hampshire's request to redesignate the Boston-Manchester-Portsmouth (SE), New Hampshire 1997 8-hour ozone nonattainment area (hereafter, the "Southern NH" area) and a SIP revision that establishes a maintenance plan for this area. The maintenance plan sets forth how the area will maintain attainment of the 1997 8-hour ozone NAAQS for the next 10 years in accordance with Section 175A of the Clean Air Act (CAA). The NPR also proposed approval of the motor vehicle emission budgets (MVEBs) associated with the maintenance plan, as well as a 2008 comprehensive emission inventory for the area. The New Hampshire Department of Environmental Services (NH DES) submitted the request to redesignate the Southern NH area to attainment of the 1997 8-hour ozone standard on March 2, 2012, with a supplement submitted on September 21, 2012. The specific details of New Hampshire's redesignation request, 175A maintenance plan, and MVEBs, and the rationale for EPA's proposed approval are explained in the NPR and will not be restated here. No public comments were received on the NPR.

The NPR stated that EPA would act on several outstanding issues before we finalized approval of the redesignation request and the associated maintenance plan. All outstanding actions have been completed. The final rulemaking notice on the determinations of attainment for the New Hampshire areas for the one-hour ozone standard was published on October 30, 2012 (77 FR 65625). The approval of New Hampshire's Reasonably Available Control Technology (RACT) Certification SIP for the 1997 8-hour ozone standard was published on November 5, 2012 (77 FR 66388). The approval of New Hampshire's SIP addressing EPA's 2006, 2007, and 2008 Control Technique Guidelines (CTGs) was published on November 8, 2012 (77 FR 66921). Finally, the approval of New Hampshire's Vehicle Inspection and Maintenance (I/M) SIP was signed by the Regional Administrator on November 14, 2012 and forwarded for publication in the Federal Register. A copy of the signed approval of New Hampshire's I/M SIP is available in the docket for this action. In addition, preliminary 2012 ozone data available for the area is well below the 1997 ozone NAAQS.

II. Final Action

EPA is approving the State of New Hampshire's March 2, 2012 (supplemented on September 21, 2012) redesignation request and maintenance plan for the Southern NH area, because the requirements for approval have been satisfied. EPA has evaluated New Hampshire's redesignation request, and determined that it meets the redesignation criteria set forth in section 107(d)(3)(E) of the Clean Air Act. EPA believes that the redesignation request and monitoring data demonstrate that the area has attained the 1997 8-hour ozone standard. The final approval of this redesignation request will change the designation of the Southern NH area from

nonattainment to attainment for the 1997 8-hour ozone standard. EPA is also approving the associated ozone maintenance plan for this area, submitted on March 2, 2012, and supplemented on September 21, 2012, as a revision to the New Hampshire SIP. EPA is approving the ozone maintenance plan for the area because it meets the requirements of section 175A of the CAA. In addition, EPA is also withdrawing the previously SIP-approved 2009 MVEBs prepared with the MOBILE6.2 model and approving the 2008 and 2022 MVEBs prepared with the MOVES model that are associated with the ozone maintenance plan. Finally, EPA is approving the 2008 comprehensive emission inventory for the Southern NH area under CAA section 182(a)(1).

III. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. These actions do not impose additional requirements beyond those imposed by state law and the CAA. For that reason, these actions:

- are not "significant regulatory actions" subject to review by the Office of Management

and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any

existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects:

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: December 27, 2012.

H. Curtis Spalding,
Regional Administrator,
EPA New England.

40 CFR parts 52 and 81 are amended as follows:

PART 52 – [APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart EE - New Hampshire

2. Section 52.1534 is amended by adding paragraph (i) to read as follows:

§ 52.1534 Control strategy: Ozone.

* * * * *

(i) Approval – EPA is approving a redesignation request for the Boston-Manchester-Portsmouth (SE), New Hampshire moderate 1997 8-hour ozone nonattainment area. New Hampshire submitted this request on March 2, 2012, and supplemented this submittal on September 21, 2012. As part of the redesignation request, the State submitted a maintenance plan as required by section 175A of the Clean Air Act. Elements of the section 175 maintenance plan include a contingency plan and an obligation to submit a subsequent maintenance plan revision as required by the Clean Air Act. The ozone maintenance plan also establishes 2008 and 2022 Motor Vehicle Emission Budgets (MVEBs) for the area. New Hampshire is establishing 2008 MVEBs of 17.8 tons per summer weekday (tpswd) of VOC and 37.2 tpswd of NO_x, for the Boston-Manchester-Portsmouth (SE), New Hampshire 1997 8-hour ozone maintenance area. In addition, New Hampshire is establishing MVEBs for 2022 at 9.2 tpswd of VOC and 11.8 tpswd of NO_x,

for the same area. The 2008 and 2022 MVEBs were prepared with the MOVES model. Previously SIP-approved 2009 MVEBs prepared with MOBILE6.2 are being withdrawn. Finally, EPA is also approving a comprehensive 2008 emission inventory for this area.

PART 81 - [DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES]

3. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

4. Section 81.330 is amended by revising the entry for the Boston-Manchester-Portsmouth (SE), in the New Hampshire 1997 8-hour Ozone NAAQS (Primary and Secondary) table to read as follows:

§ 81.330 New Hampshire

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New Hampshire—1997 8-Hour Ozone NAAQS (Primary and Secondary)

Designated Area	Designation ^a		Category/Classification	
	Date ¹	Type	Date ¹	Type
Boston-Manchester-Portsmouth (SE), NH:				
Hillsborough County (part) Amherst Town, Bedford Town,	[FR insert date 30 days after	Attainment		

Brookline Town, Goffstown Town, Hollis Town, Hudson Town, Litchfield Town, Manchester City, Merrimack Town, Milford Town, Nashua City, Pelham Town	publication]			
Merrimack County (part) Hooksett Town	[FR insert date 30 days after publication]	Attainment		
Rockingham County (part) Atkinson Town, Auburn Town, Brentwood Town, Candia Town, Chester Town, Danville Town, Derry Town, E. Kingston Town, Epping Town, Exeter Town, Fremont Town, Greenland Town, Hampstead Town, Hampton Town, Hampton Falls Town, Kensington Town, Kingston Town, Londonderry Town, New Castle Town, Newfields Town, Newington Town, Newmarket Town, Newton Town, North Hampton Town, Plaistow Town, Portsmouth City, Raymond Town, Rye Town, Salem Town, Sandown Town,	[FR insert date 30 days after publication]	Attainment		

Seabrook Town, South Hampton Town, Stratham Town, Windham Town				
Strafford County (part) Dover City, Durham Town, Rochester City, Rollinsford Town, and Somersworth City	[FR insert date 30 days after publication]	Attainment		
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^aIncludes Indian country located in each county or area, except otherwise specified.

¹ This date is June 15, 2004, unless otherwise noted.

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01/31/2013]